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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Harry R. Davis et al.

Examiner: Dr. Shengjun Wang

Serial No.: 10/057,646

Group Art Unit: 1617

Filed: January 25, 2002

Atty. Docket No.: CV01379K

For: Combinations of Nicotinic Acid
and Derivatives Thereof and
Sterol Absorption Inhibitor(s) and
Treatments for Vascular
Indications

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450


RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

This is in response to the Office Action mailed on July 29, 2003, in the above-identified patent application.

Claims 1-81 are pending in the application. A two-way restriction requirement was set forth at page 2 of the Office Action and an election of species requirement was set forth at page 3 of the Office Action. For brevity, these rejections are not repeated herein but reference is made to the Office Action. Applicants respectfully traverse and request reconsideration and withdrawal of the restriction and election of species requirements.

Applicants believe that when there is a linking claim encompassing the scope of pharmaceutical compositions comprising compounds and methods of treatment using the compositions, it is inappropriate to restrict the invention. Applicants believe that due to such commonality a complete examination of claims 1-81 would not cause undue burden. Therefore, reconsideration and withdrawal of the restriction requirement is respectfully requested.

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Ann Cannoni
Registration No. 35,972



**PROVISIONAL RESPONSE TO RESTRICTION REQUIREMENT AND
ELECTION OF SPECIES**

To facilitate prosecution of the application and in order to comply with the Examiner's requirements, Applicants hereby provisionally elect with traverse the claims of Group 1 (claims 1-35, 40, 42, 43, 47, 48, 50, 52, 53, 55, 57, 58, 60, 62, 63, 65, 67, 68, 70, 71, 73, 74, 76, 77, 79 and 80) for initial examination in this application.

Applicants provisionally elect with traverse nicotinic acid for initial examination. All of the pending claims are readable thereon.

Applicants provisionally elect with traverse the compound of Formula (II) (ezetimibe) (shown at page 29 of the specification) for initial examination in this application. The claims readable thereon include claims 1-36 and 70-81.

Examination on the merits for claims 1-81 is respectfully requested.

Respectfully submitted,

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Date: August 13, 2003


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Attorney Docket No.: CV '9K

Application No.: 10/057,646

Filing Date: 01/25/2002

Inventor: Harry R. Davis et al.

PTO/SB92 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

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Documents submitted:

Response Transmittal Form PTO/SB/21 - 1 Page

Response to Restriction Requirement and Election Species - 2 Pages

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1617

PTO/SB/21 (03-03)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/057,646
	Filing Date	01/25/2002
	First Named Inventor	Harry R. Davis, et al.
	Art Unit	1617
	Examiner Name	Dr. Shengjun Wang
	Attorney Docket Number	CV01379K
Total Number of Pages in This Submission	4	

ENCLOSURES (Check all that apply)		
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